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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,078	07/30/2003	Donald E. Weder	8403.943	9318
30589	7590	01/30/2004	EXAMINER	
DUNLAP, CODDING & ROGERS P.C.			GELLNER, JEFFREY L	
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OKLAHOMA CITY, OK 73113			3643	

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/630,078	Applicant(s) WEDER ET AL.	
	Examiner Jeffrey L. Gellner	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

A signed 1449 will accompany the next office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-6, 8-10, 12, 14,15,17, 18, and 20-22 are rejected under 35 U.S.C. §102(b) as being anticipated by Grimes (US 3,822,806; document A61 on Applicant's 1449).

As to Claim 1, Grimes discloses a sleeve (Figs. 5-13) having a flattened state (disclosed in Fig. 5) and openable therefrom to an opened state ("when filled with liquid" from abstract), comprising an outer peripheral surface (shown in Fig. 10), an inner peripheral surface (inherent in Fig. 10), a first sidewall edge (region around one of the "T" leadlines in Fig. 10), a second sidewall edge (region around the other "T" leadline of Fig. 10), and upper end (region around the "P" symbol of Fig. 10) having an upper edge (region around "P" leadline Fig. 10), the sleeve having a concave lower end in the flattened state (Fig. 10) having only a single inwardly curved lower edge in the flattened state (Fig. 10), and the sleeve further comprising an inner space in the opened state (inherent from abstract).

As to Claim 2, Grimes further discloses a the concave lower end having a curvilinear or rounded shape (Fig. 10).

As to Claims 4 and 5, Grimes further discloses a detaching element of perforations (P of Fig. 10; col. 7 lines 44-49) for enabling detachment of an upper portion (“upper portion” of Fig. 10) of the sleeve from a lower portion.

As to Claim 6, Grimes further discloses a non-linear upper edge when detached (disclosed in Fig. 10 around leadline of P).

As to Claim 8, Grimes further discloses the upper portion sized to substantially surround a floral grouping (see Fig. 10).

As to Claim 9, Grimes further discloses the upper portion adapted to support the sleeve from a support element (disclosed in Fig. 5; inherent in “roll” of col. 7 lines 15-20).

As to Claim 10, Grimes further discloses a skirt portion (region around leadline of “T” in Fig. 10).

As to Claim 12, Grimes further discloses a non-linear upper edge (disclosed in Fig. 10 around leadline of P).

As to Claims 14 and 17, Grimes discloses a sleeve (Figs. 5-13) having a flattened state (disclosed in Fig. 5) and openable therefrom to an opened state (“when filled with liquid” from abstract), comprising an outer peripheral surface (shown in Fig. 10), an inner peripheral surface (inherent in Fig. 10), a first sidewall edge (region around one of the “T” leadlines in Fig. 10), a second sidewall edge (region around the other “T” leadline of Fig. 10), and upper end (region around the “P” symbol of Fig. 10) having an upper edge (region around “P” leadline Fig. 10), the

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sleeve having a concave lower end in the flattened state (Fig. 10) having only a single inwardly curved lower edge in the flattened (Fig. 10), and the sleeve further comprising an inner space in the opened state (inherent from abstract); and, a detaching element of perforations (P of Fig. 10) for enabling detachment of an upper portion ("upper portion" of Fig. 10) of the sleeve from a lower portion.

As to Claim 15, Grimes further discloses a the concave lower end having a curvilinear or rounded shape (Fig. 10).

As to Claim 18, Grimes further discloses a non-linear upper edge when detached (disclosed in Fig. 10 around leadline of P).

As to Claim 20, Grimes further discloses the upper portion sized to substantially surround a floral grouping (see Fig. 10).

As to Claim 21, Grimes further discloses the upper portion adapted to support the sleeve from a support element (disclosed in Fig. 5; inherent in "roll" of col. 7 lines 15-20).

As to Claim 22, Grimes further discloses a skirt portion (region around leadline of "T" in Fig. 10).

Claims 1-3, 10, 11, and 13 are rejected under 35 U.S.C. §102(b) as being anticipated by Smith (US 3,924,795; document A64 on Applicant's 1449).

As to Claim 1, Smith discloses a sleeve (Figs. 2-4) having a flattened state (col. 2 lines 62-63) and openable therefrom to an opened state (Figs. 2-4), comprising an outer peripheral surface (shown in Figs. 2-4), an inner peripheral surface (inherent in Figs. 2-4), a first sidewall

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edge (inherent in Figs. 2-4 when in flattened state), a second sidewall edge (inherent in Figs. 2-4 when in flattened state), and upper end (Figs. 2-4) having an upper edge (Figs. 2-4), the sleeve having a concave lower end (shown in Fig. 3) in the flattened state (inherent in col. 2 lines 62-63) having only a single inwardly curved lower edge in the flattened state (Fig. 3), and the sleeve further comprising an inner space in the opened state.

As to Claim 2, Smith further discloses a the concave lower end having a curvilinear or rounded shape (Fig. 3).

As to Claim 3, Smith further discloses a gusset (27 and 28 as shown in Fig. 3).

As to Claim 10, Smith further discloses a skirt portion (region generally around 14 in Figs. 3 and 4).

As to Claim 11, Smith further discloses a frustonconical shape when in the opened state (Fig. 3).

As to Claim 13, Smith further discloses the upper end linear (Fig. 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Grimes (US 3,822,806; document A61 on Applicant's 1449) in view of Pouches, Form-Fill-Seal (Packaging's Encyclopedia 1989 hereinafter "Pouches"; document C20 on Applicant's 1449).

As to Claim 3, the limitations of Claim 1 are disclosed as described above. Not disclosed is a gusset in the concave lower end. Pouches, however, discloses a concave lower end with a gusset (middle Figs.). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve Grimes by adding a gusset as disclosed by Pouches so as to increase the holding capacity of the sleeve.

As to Claim 16, the limitations of Claim 14 are disclosed as described above. Not disclosed is a gusset in the concave lower end. Pouches, however, discloses a concave lower end with a gusset (middle Figs.). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve Grimes by adding a gusset as disclosed by Pouches so as to increase the holding capacity of the sleeve.

Claims 7, 13, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimes (US 3,822,806; document A61 on Applicant's 1449).

As to Claim 7, the limitations of Claim 4 are disclosed as described above. Not disclosed is the upper edge after detachment being linear. Examiner takes official notice that it is old and notoriously well known in the sleeve/liner art to have sleeves with linear upper edges after detachment. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Grimes by making the upper edge linear after detachment depending upon use and consumer demand.

As to Claim 13, the limitations of Claim 1 are disclosed as described above. Not disclosed is the upper edge being linear. Examiner takes official notice that it is old and notoriously well known in the sleeve/liner art to have sleeves with linear upper edges. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Grimes by making the upper edge linear depending upon use and consumer demand.

As to Claim 19, the limitations of Claim 14 are disclosed as described above. Not disclosed is the upper edge after detachment being linear. Examiner takes official notice that it is old and notoriously well known in the sleeve/liner art to have sleeves with linear upper edges after detachment. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Grimes by making the upper edge linear after detachment depending upon use and consumer demand.

Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimes (US 3,822,806; document A61 on Applicant's 1449) in view of Edwards et al. (US 5,464,097; document A131 on Applicant's 1449).

As to Claim 11, the limitations of Claim 1 are disclosed as described above. Not disclosed is the a generally frusto-conical shape when in the open state. Edwards, however, discloses a sleeve with a frusto-conical shape (shown in Fig. 1) when open. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Grimes by making the sleeve with a frusto-conical shape when opened as disclosed by Edwards et al. so as to allow for a wide upper end so as to make use of the sleeve easier (see Edwards et al. at abstract).

As to Claim 23, the limitations of Claim 14 are disclosed as described above. Not disclosed is the a generally frusto-conical shape when in the open state. Edwards, however, discloses a sleeve with a frusto-conical shape (shown in Fig. 1) when open. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Grimes by making the sleeve with a frusto-conical shape when opened as disclosed by Edwards et al. so as to allow for a wide upper end so as to make use of the sleeve easier (see Edwards et al. at abstract).

Claims 4,5, 7-9, 14-17 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 3,924,795; document A61 on Applicant's 1449) in view of Wagner (US 4,911,561).

As to Claims 4 and 5, the limitations of Claim 1 are disclosed as described above. Not disclosed is a detaching element for enabling detachment of an upper portion of the sleeve from a lower portion of the sleeve. Wagner, however, discloses a detaching element, perforations, (14 of Figs. 4 and 12) for enabling detachment of an upper portion (7 of Fig. 4) of the sleeve from a lower portion of the sleeve. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Smith by adding a detaching element of perforations with an upper portion so that the sleeves can be stored on wickets before use.

As to Claim 7, Smith as modified by Wagner further disclose a detaching element with a linear pattern (Figs. 4 and 12).

As to Claim 8, Smith as modified by Wagner further disclose the upper portion (7 of Fig. 4) sized to surround and enclose a floral grouping.

As to Claim 9, Smith as modified by Wagner further disclose the upper portion adapted to support the sleeve from the support element (implicit in “hanging hole 12” of col. 4 line 17).

As to Claims 14 and 17 , Smith discloses a sleeve (Figs. 2-4) having a flattened state (col. 2 lines 62-63) and openable therefrom to an opened state (Figs. 2-4), comprising an outer peripheral surface (shown in Figs. 2-4), an inner peripheral surface (inherent in Figs. 2-4), a first sidewall edge (inherent in Figs. 2-4 when in flattened state), a second sidewall edge (inherent in Figs. 2-4 when in flattened state), and upper end (Figs. 2-4) having an upper edge (Figs. 2-4), the sleeve having a concave lower end (shown in Fig. 3) in the flattened state (inherent in col. 2 lines 62-63) having only a single inwardly curved lower edge in the flattened state (Fig. 3), and the sleeve further comprising an inner space in the opened state. Not disclosed is a detaching element of perforations extending from the first to the second sidewall edges for detaching an upper portion of the sleeve from a lower portion of the sleeve. Wagner, however, discloses a detaching element, perforations, (14 of Figs. 4 and 12) extending from sidewall to sidewall (Fig. 4) for detaching an upper portion of the sleeve from a lower portion of the sleeve. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Smith by adding a detaching element of perforations with an upper portion so that the sleeves can be stored on wickets before use.

As to Claim 15, Smith as modified by Wagner further disclose a the concave lower end having a curvilinear or rounded shape (Fig. 3).

As to Claim 16, Smith as modified by Wagner further disclose a gusset (27 and 28 as shown in Fig. 3).

As to Claim 19, Smith as modified by Wagner further disclose the upper end linear (Fig. 3)

As to Claim 20, Smith as modified by Wagner further disclose the upper portion (7 of Fig. 4) sized to surround and enclose a floral grouping.

As to Claim 21, Smith as modified by Wagner further disclose the upper portion adapted to support the sleeve from the support element (implicit in "hanging hole 12" of col. 4 line 17).

As to Claim 22, Smith as modified by Wagner further disclose a skirt portion (region generally around 14 in Figs. 3 and 4).

As to Claim 23, Smith as modified by Wagner further disclose a frustonconical shape when in the opened state (Fig. 3).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Huang, Moore Jr. et al., and Cordle disclose in the prior art various sleeves concave lower edges.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

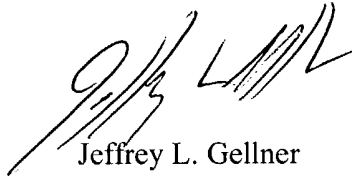
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

A handwritten signature in black ink, appearing to read 'J. L. Gellner', is positioned above the printed name. The signature is stylized with a large initial 'J' and a distinct 'L'.

Jeffrey L. Gellner